

CITY COUNCIL AGENDA

NOVEMBER 18, 2003

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:02 a.m. - Closed Session, Room 600, City Hall

Absent Council Members: Gregory. (Excused)

1:35 p.m. - Regular Session, Council Chambers, City Hall

Absent Council Members: None.

7:03 p.m. - Public Hearings, Council Chambers, City Hall

Absent Council Members: Chirco. (Excused)

General Plan Hearings

Cancelled.

- **Invocation (District 10)**

The Holy Spirit Elementary School Choir comprised of 23 girls, grades Third through Seventh, led by Director Joan Lang, sang two songs “Grant Us Peace” in Latin, and “God Bless the USA”.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day, and the Amended Agenda were approved.

Mayor Gonzales announced Harry Mavrogenes has been appointed as Interim Director of the San José Redevelopment Agency beginning December 2003, as reported in Closed Session.

Mayor Gonzales announced as a part of a project to upgrade cable television service in San José, Comcast Cable will be changing the channel location of Civic Center Television, which is operated by the City of San José carrying the City Council Meetings live, as well as other Civic information about City Government. Mayor Gonzales stated beginning Wednesday, December 3, 2003, Civic Center Television will be seen on Comcast Cable Channel 26 or 26A throughout San José.

1 CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Santa Clara County Office of Education “Teacher of the Year 2003” awardees that are teaching in our San José schools. Chirco, Cortese, Gregory, Williams, Yeager)

Heard in the Evening.

Mayor Gonzales was joined at the podium by Council Members Chirco, Cortese, Gregory, Williams and Yeager to present commendations to the Santa Clara County Office of Education “Teacher of the Year 2003” awardees, who have dedicated their lives to teach our children, and are the heroes of our community. The Council Members presented the commendations to Tami McMillan, Lynbrook High School, Nancy Schwalen, Santa Teresa High School, Takako Nishihara, Baldwin School, Juanita Ryan, Toyon School, Diane Gardner, Hubbard School, Robyn Better, Kennedy School, Carolyn Rogozen, Boeger Junior High School, Betty Parsons, Dartmouth Middle School, Richard Alipaz, Leigh High School, Eileen Beckley, Price Middle School, and Dayle Land-Moore, Hacienda Magnet School. Plaques will be sent to Tom Mullin, Central County Occupational Center, and Harriette Fisher, Anderson Elementary School, who were not present.

- 1.2 Presentation of a commendation to the outstanding San José Police Department Mounted Unit for winning a competition for best law enforcement mounted unit and best color guard at the Grand National Rodeo. (Dando)

Heard first in the Evening.

Mayor Gonzales was joined at the podium by Vice Mayor Dando to commend Sergeant Greg Trapp and the members of San José Police Mounted Unit for their outstanding accomplishments by becoming the Color Guard Champion and their continuing effective representation of good will as the ambassadors of San José. On behalf of the City Council, Mayor Gonzales presented the award to Sergeant Greg Trapp. The San José Police Mounted Unit is responsible for patrolling and protecting the public safety downtown in San José, has established very high standards for its conduct and its appearance, makes over 300 appearances each year at schools, churches, community groups, assists with dignitary protection, crowd control of public events, and searches for missing children. The members of the San José Police Mounted Unit regularly enter the Grand National Rodeo and the Annual Equestrian Competition at the San Francisco Cow Palace, and in order to compete against the best in their field, their efforts entail many hours of hard work to prepare their horses, equipment, and uniforms to represent the very best of San José. The San José Police Mounted Unit has won the Color Guard Competition for 7 years in a row, and for the first time this year they received the prestigious overall Color Guard Competition out of 32 Color Guards represented across the United States.

Vice Mayor Dando welcomed Den 6 of the Sabertooth Webelos Den of Pack 286 from Holy Family Church from her District, and thanked them for their interest in the democratic process, and for participating earlier this evening in a Founder’s Day Celebration for the City of San José.

1 CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to History San José and the Sponsors of Founders Day 2003. (Dando)
Heard in the Evening.
Mayor Gonzales was joined at the podium by Vice Mayor Dando to present commendations to the History San José and the Sponsors of the Founders Day 2003. Vice Mayor Dando stated San José is 226 years old this month, and it is important for us to remember San Jose's history. Mayor Gonzales, on behalf of Vice Mayor Dando and the Council Members presented commendations to recognize and commend the volunteers, the staff and the supporters of History San José, for their time and dedication in keeping San José's history alive, and preserving the character of our City and ensuring it remains for future residents to enjoy, and Mark Ritchie, Board President accepted the award; David Crosson, President/CEO was also present. Mayor Gonzales recognized and commended the members of the Preservation Action Council for their time and dedication in keeping our history alive, and Alex Marthews, Executive Director accepted the award. Mayor Gonzales recognized and commended all of the participants of Los Lupenos de San José for their time and dedication in keeping our past alive, preserving our historic culture and art of our City, and ensuring it will remain for future residents, and Dennis Thomatos, Executive Director accepted the award. Los Lupenos de San José is the oldest folkloric dance company in the United States and exists to share, promote the awareness, appreciation and understanding of the rich, passionate culture of Mexico.
- 1.4 Presentation of plaques to Harold Cole for 2 years 8 months service on the Disability Advisory Commission; to Patsy Storie for 1 year service on the Early Care and Education Commission; to Nancy Marcus for 3 years 3 months service on the Senior Citizens Commission; to Davlyn Jones for 1 year 10 months service on the Small Business Development Commission; to Carolyn Shadle for 1 year 3 months service on the Small Business Development Commission; and to Jim McBride for 4 years 10 months service on the Suggestion Award Commission. (Mayor)
Mayor Gonzales stated occasionally the City Council has the opportunity to thank people in the community who have served the City of San José on the various Boards and Commissions who provide advice, and counsel to the City Council on a variety of public policies as well as efforts that the City may be launching in the community's areas of interest. Mayor Gonzales recognized and commended the following people for their service, Harold Cole for 2 years, 8 months of service on the Disability Advisory Commission, Patsy Storie for 1 year service on the Early Care and Education Commission, and Jim McBride for 4 years, 10 months service on the Suggestion Award Commission. Plaques will be mailed to Nancy Marcus for 3 years 3, months service on the Senior Citizens Commission, Davlyn Jones for 1 year, 10 months service on the Small Business Development Commission, and Carolyn Shadle for 1 year, 3 months service on the Small Business Development Commission, who were not present.

1 CEREMONIAL ITEMS

Police Officer Pete Lovecchio, representing the Military Reservists of the San José Police Department expressed gratitude to the Mayor and City Council for their efforts to help the reservists with their financial and moral support. Officer Lovecchio stated in March 2003 the City Council acted to help them by updating the supplemental pay and benefits for mobilized reservists. Officer Lovecchio expressed appreciation for the Council's efforts. Fellow Police Officers Margie Thompson, Brian Christian, and Brett Linden also expressed appreciation to the Mayor and the City Council. Officer Lovecchio presented to the Mayor and City Council, individual certificates from the National Committee for Employer's Support of the Guard and Reserve (ESGR), and a lapel pin. Officer Lovecchio stated the ESGR is an Agency within the Office of the Assistant Secretary of Defense for the Reserve Affairs, and the Police Officer reservists submitted the San José City Council to receive recognition as patriotic employers. The Police Officer reservists passed out the certificates and pins to the Mayor and each Council Member.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of City Council Minutes for:

- (a) Regular meeting of June 17, 2003
- (b) Regular meeting of June 24, 2003
- (c) Joint Council/Redevelopment Agency Board meeting of June 24, 2003
- (d) Regular meeting of August 12, 2003
- (e) Joint Council/Redevelopment Agency Board/Financing Authority meeting of August 12, 2003
- (f) Regular meeting of August 19, 2003
- (g) General plan meeting of August 19, 2003
- (h) Joint Council/Redevelopment Agency Board meeting of August 19, 2003
- (i) Joint Council/Redevelopment Agency Board/San José Financing Authority meeting of August 19, 2003

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27008 – Amends Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period of suspension of collection of the Building and Structure Construction Tax for the construction of special industrial use tenant improvements, and adds a new Section 4.46.039.9 to provide for the suspension of collection of the Building and Structure Construction Tax for the construction of office use tenant improvements in the downtown core.

Ordinance No. 27008 adopted.

2 CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (b) ORD. NO. 27010 – Amends Chapter 11.48 of Title 11 of the San José Municipal Code to add a new Section 11.48.180 to establish a Santana Area Neighborhood Residential Permit Parking Program.

Ordinance No. 27010 adopted.

- (c) ORD. NO. 27011 – Amends certain time limitations with respect to redevelopment plans.

Ordinance No. 27011 adopted.

- (d) ORD. NO. 27012 – Rezones certain real property situated at the southeast corner of E. Virginia and S. Fifth Streets. PDCSH 03-022

Ordinance No. 27012 adopted.

- (e) ORD. NO. 27013 – Rezones certain real property situated on the west side of S. Eleventh Street, approximately 140 feet north of Margaret Street (671 S. Eleventh Street), to A(PD) Planned Development Zoning District. PDC 00-115

Ordinance No. 27013 adopted.

- (f) ORD. NO. 27014 – Rezones certain real property situated at the northwest corner of Hillsdale Avenue and Almaden Expressway to A(PD) Planned Development Zoning District. PDC 03-027

Ordinance No. 27014 adopted.

2.3 Approval of a cost sharing agreement with the Santa Clara Valley Water District.

Recommendation: Approval of an agreement with the Santa Clara Valley Water District (District) for cost sharing associated with implementation of water conservation programs in 2003-2004, under which the City will receive an amount not to exceed \$362,500 from the District, and the District will receive an amount not to exceed \$446,847 from the City. CEQA: Not a Project. (Environmental Services)

(Deferred from 10/28/03 – Item 2.5)

Rules Committee deferred to 11/25/03.

2.4 Appointments to the Healthy Neighborhood Venture Fund (HNVF) Advisory Committee.

Recommendation: Approval of appointments to the HNVF Advisory Committee. (Mayor)

(Deferred from 11/4/03 – Item 2.12)

Approved.

2 CONSENT CALENDAR

2.5 Approval of an agreement for legal services.

Recommendation: Approval of the fourth amendment to the legal services agreement with Bingham McCutchen to increase the compensation by \$125,000, for a total not to exceed \$925,000. CEQA: Not a Project. (Boards of Administration for Federated City Employees' Retirement System and Police & Fire Department Retirement Plan)
Approved.

2.6 Acceptance of the Office of the City Auditor's monthly report.

Recommendation: Acceptance of the Office of the City Auditor's monthly *Report of Activities and Findings through October 15, 2003*. (City Auditor)
Report Accepted.

2.7 Acceptance of the finding reports regarding Bay 101 stock transfer.

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong, & Company, LLP for the quarter ending June 30, 2003, relating to Bay 101 Conditional Approval of Stock Transfer. (City Auditor)
Report Accepted.

2.8 Approval to add a new Council Agenda section entitled General Plan Hearings.

Recommendation: Adoption of a resolution amending the City Council Rules Resolution, Rule 2, and order of business to add a new section on the Council Agenda entitled "GENERAL PLAN HEARINGS." CEQA: Not a Project. (City Manager's Office/City Clerk)
Resolution No. 71820 adopted.

2.9 Approval of various fiscal actions regarding projects funded by the Redevelopment Agency.

Recommendation: Adoption of an appropriation ordinance and funding sources resolution amendments for various projects supported by the San José Redevelopment Agency and adoption of a resolution making certain determinations regarding the expenditure of Agency funds on certain public improvements. CEQA: Resolution No. 65459, PP03-10-343. Council Districts 3 and 7. SNI Areas: Winchester, 13th Street, and West Evergreen. (City Manager's Office)
Ordinance No. 27015 adopted.
Resolution Nos. 71821 and 71822 adopted.

2 CONSENT CALENDAR

2.10 Approval of action related to Redevelopment Manager Money Purchase Retirement Plan.

Recommendation: Adoption of a resolution establishing the Redevelopment Manager Money Purchase Retirement Plan, authorizing the Director of Employee Services to execute the Declaration of Trust of the ICMA Retirement Trust and to execute all necessary agreements incidental to the establishment and administration of the Plan, and naming the Benefits Manager as coordinator for the Plan. CEQA: Not a Project. (Employee Services)

Resolution No. 71823 adopted.

2.11 Approval of various actions regarding the Water Pollution Control Plant.

Recommendation:

- (a) Report on bids and award of contract for the San José/Santa Clara Water Pollution Control Plant, Diversion Pipeline Mid Point Chlorination Project to the low bidder, D.W. Nicholson Corporation, in the amount of \$622,000, and approval of a contingency in the amount of \$62,000. CEQA: Exempt, PP02-04-077. (Environmental Services)

Approved.

- (b) Report on a bid and award the purchase of two SCAT 4441 sludge aerator/mixer and bioremediation blenders, to Nixon-Egli (Tracy, CA) at a total cost of \$622,293.38 including tax and delivery, and authorize the Director of General Services to:
- (1) Execute a purchase order for the immediate purchase of two SCAT 4441 sludge aerator/mixer bioremediation blenders; and
 - (2) Approve a contingency of 5% for any unforeseen engineering changes that may arise.

CEQA: Not a Project. (General Services)

Approved.

2.12 Approval of a grant agreement for reimbursement of costs associated with the South Bay Water Recycling (SBWR) Silver Creek Pipeline.

Recommendation: Adoption of a resolution authorizing the City Manager to execute a grant agreement to accept up to \$3,654,544 in funding from the State Water Resources Control Board (SWRCB) for reimbursement of costs associated with the South Bay Water Recycling (SBWR) Silver Creek Pipeline. CEQA: Resolution No. 64667, and Addenda thereto, PP01-09-162. Council Districts 2 and 8. (Environmental Services)

Resolution No. 71824 adopted.

2 CONSENT CALENDAR

2.13 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #5, and authorization for the Director of General Services to execute the purchase orders. CEQA: Not a Project (General Services)
Approved.

2.14 Approval to reorganize and annex land designated as Franklin No. 51.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as Franklin No. 51, which involves the annexation to the City of San José of 0.503 acre of land, located on the southeastern corner of Garden Avenue and Southside Drive, generally bounded by the City of San José Annexation Franklin 28, and the detachment of the same from the Central Fire Protection, County Library Service Area, County Sanitation 2-3, and the County Lighting Service. CEQA: Resolution No. 71359. Council District 7. (Planning, Building and Code Enforcement)
Resolution No. 71825 adopted.

2.15 Approval to reorganize and annex land designated as McKee No. 120.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as McKee No. 120 which involves the annexation to the City of San José of 5.37 acres of land, more or less, consisting of three parcels totaling approximately 4.80 acres and a portion of Hyland Avenue totaling approximately 0.57 acre, located at Hyland Avenue between Marian Lane and Maro Drive, and adjacent to the City of San José annexation McKee No. 91, and the detachment of the same from Santa Clara County Central Fire Protection District, Santa Clara County Lighting District, Santa Clara (Library Services) County Service, Area No. 01 and the Library Benefit Assessment County Service Area No. 01. CEQA: Mitigated Negative Declaration, PDC 01-082. Council District 5. (Planning, Building and Code Enforcement)
Resolution No. 71826 adopted.

2.16 Approval to reorganize and annex land designated as Winchester No. 39.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as Winchester No. 39 which involves the annexation to the City of San José of 0.16 acre of land, located on the west side of Henry Avenue, approximately 380 feet southerly of Stevens Creek Boulevard and generally bounded by the City of San José Annexation Winchester No. 6, and the detachment of the same from the appropriate special districts including: Central Fire Protection, West Valley Sanitation District, Santa Clara County Lighting Service Area, and the County Service Area No. 1 (County Library Services Area). CEQA: Resolution No. 65459. Council District 1. (Planning, Building and Code Enforcement)
Resolution No. 71827 adopted.

2 CONSENT CALENDAR

2.17 Approval of fiscal actions related to the Office of Traffic Safety California Seat Belt Compliance Campaign Program Grant.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund as follows:

- (a) Establish an appropriation in the City-wide Expenses to the Police Department for the Office of Traffic Safety California Seat Belt Compliance Campaign Program Grant in the amount of \$49,998; and
- (b) Increase the Earned Revenue Estimate from the State of California by \$49,998.

CEQA: Not a Project. (Police/City Manager's Office)

Ordinance No. 27016 adopted.

Resolution No. 71828 adopted.

2.18 Approval of fiscal actions related to the COPS Interoperable Communications Technology grant.

Recommendation:

- (a) Adoption of a resolution to accept the U.S. Department of Justice 2003-05 COPS Interoperable Communications Technology grant in the amount of \$3,692,162 and authorize the City Manager to execute the related grant agreement.

Resolution No. 71829 adopted.

- (b) Adoption of a resolution to accept the cash match contribution totaling \$1,130,722 from the City of Palo Alto (\$93,000), the County of Santa Clara - SB720 Funds (\$739,680), and the Silicon Valley Regional Interoperability Project Group (\$298,042).

Resolution No. 71830 adopted.

- (c) Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund for Fiscal Year 2003-04:

- (1) Establish a City-wide appropriation to the Police Department for COPS 2003-04 Interoperable Communications Grant in the amount of \$4,822,884;
- (2) Increase the Earned Revenue Estimate from the Federal Government by \$3,692,162;
- (3) Increase the Earned Revenue Estimate from Local Agencies by \$1,130,722.

CEQA: Resolution No. 65459, PP03-10-345. (Police/City Manager's Office)

Ordinance No. 27017 adopted.

Resolution No. 71831 adopted.

2 CONSENT CALENDAR

2.19 Approval of actions to accept public utility easements.

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to accept a public utility easement from Bedford Property Investors, Inc., for a public utility easement located near the Concourse and Lundy intersection for a cost not to exceed \$1,159, and to execute all documents necessary to complete the transaction; and
- (b) Approving an agreement for purchase of a public utility easement located north of the Concourse and Lundy intersection, by and between the City of San José and Flextronics International USA, Inc., for \$1,230.

CEQA: Exempt, PP01-11-193. Council District 4. (Public Works)

Resolution No. 71832 adopted.

2.20 Approval to award a contract for the Plaza de Cesar Chavez Electrical Upgrades Project.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Plaza de Cesar Chavez Electrical Upgrades Project, and approval of a fifteen percent contingency. CEQA: Exempt, PP03-06-202. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services)

Deferred to 11/25/03.

2.21 Approval of one proposed City Event for use at the HP Pavilion at San José.

Recommendation: Approval of one proposed City Event for use at the HP Pavilion at San José on December 7, 2003, for the First Annual Winter Concert. (San José Arena Authority)

Approved.

2.22 Approval of a fund transfer agreement associated with the Willow Glen Spur Trail Project.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a fund transfer agreement with the County of Santa Clara (County) for the receipt of \$2,000,000 for the potential acquisition of property associated with the Willow Glen Spur Trail Project. CEQA: Exempt, PP02-12-370. Council District 6. (Parks, Recreation and Neighborhood Services)
(Rules Committee referral 11/12/03)

Resolution No. 71833 adopted.

2 CONSENT CALENDAR

2.23 Approval of an agreement for the removal, transportation, and beneficial reuse of biosolids.

Recommendation: Report on a Request for Proposal and adopt a resolution authorizing the Director of General Services to:

- (a) Negotiate and execute a one-year agreement with four, one-year options with Browning-Ferris Industries, Inc. for the removal, transportation, and beneficial reuse of biosolids, with the first year compensation not to exceed \$1,185,730; and
- (b) Execute each of the options to renew without further City Council action other than the appropriation of necessary funds.

CEQA: Exempt, PP 03-09-300. (General Services)

Renumbered from 7.1.

Resolution No. 71834 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

- (a) May 21, 2003 – 2003-2004 Proposed Operating Budget
- (b) May 22, 2003 - 2003-2004 Proposed Operating Budget

Reports of the Study Sessions Accepted.

3.2 Report of the Rules Committee - Meeting of October 29, 2003

Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review November 11, 2003 Draft Agenda
Dropped - Meeting Cancelled/City Holiday.

- (2) Add New Items to November 4, 2003 Amended Agenda

- Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests

The Committee recommended nine additions to the November 4, 2003 City Council Agenda.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's report listing three staff reports outstanding for the November 4, 2003 Council agenda.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of October 29, 2003 (Cont'd.) Vice Mayor Dando, Chair

- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
The Committee recommended approval to schedule a Study Session on the Economic Strategy immediately following the November 18, 2003 Council Meeting.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointment to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposal for posting high-risk sex offender data on the San José Police Department website
This item was reported at the November 4, 2003 Council Meeting.
 - (2) Review workload assessment to develop an ordinance to allow disability payments to be excluded from income taxes
The Committee continued this item to the November 12, 2003 Rules Committee meeting.
 - (3) Request for workload assessment to develop a position on a resolution supporting a statewide ballot initiative to require voter approval before state government may confiscate local tax funds
The Committee dropped this item.
 - (4) Request for item to be placed on Council agenda regarding selection of Redevelopment Agency Director
The Committee recommended no action on this item, but reached consensus that the City solicit public input in the selection of a Redevelopment Agency Director in a manner akin to the current outreach for Police Chief and Fire Chief.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of October 29, 2003 (Cont'd.) Vice Mayor Dando, Chair

- (h) Oral communications
There were none presented.
- (i) Adjournment
The meeting was adjourned at 2:30 p.m.

Meeting of November 5, 2003

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 18, 2003 Draft Agenda
The Committee recommended approval of the November 18, 2003 City Council agenda with four additions and two changes.
 - (2) Add New Items to November 11, 2003 Amended Agenda
 - Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests**Dropped. Meeting cancelled/City Holiday.**
 - (3) List of Reports Outstanding
No reports submitted.
 - (4) Review November 18, 2003 General Plan Agenda
The General Plan Meeting for November 18, 2003 was cancelled.
- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointment to Boards, Commissions and Committees
There were none.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of November 5, 2003 (Cont'd.) Vice Mayor Dando, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Review of City ordinances and policies related to dangerous domestic animals
Council Member Williams raised the question of defining a dangerous animal. Council Member Chavez requested the following also be reviewed: dog parks, dogs free to run in parks, inconsistent enforcement of animal ordinances, dogs knocking over strollers. Council Member Cortese suggested looking at State Regulations around the turn of the 20th Century when laws were enacted to protect livestock against other animals, etc. The Committee directed the City Attorney and the City Manager to return to the Rules Committee in thirty days with a report on the criteria and policies the City uses when determining the seizure of dangerous animals from their owners and also incorporating responses to the issues raised by the Rules Committee.
- (h) Oral communications
There were none presented.
- (i) Adjournment
The meeting was adjourned at 2:20 p.m.

The Report of the Rules Committee and the Actions of October 29, 2003 and November 5, 2003, were accepted.

3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – October 27, 2003 Council Member Williams, Chair

- (a) Report on the Business Area Update
The Committee accepted the Staff Report.
- (b) Report and Review of the Housing Rehabilitation Program
The Committee accepted the Staff Report.
- (c) Update Secondary Units
The Committee accepted the Staff Report, as amended.
- (d) Discussion on the Sign Ordinance for the high-rise building
See Item 4.3 for Council action taken.
The Committee accepted Staff's recommendation to return on November 24, 2003 with this Staff Report.
- (e) Oral petitions
There were none.
- (f) Adjournment
The meeting was adjourned at 3:10 p.m.

The Report of the Driving a Strong Economy Committee and the Actions of October 27, 2003, were accepted.

4.3 Approval of amendments to the Sign Code in the Edenvale Industrial Redevelopment Area.

Recommendation: Approval of an ordinance amending Title 23, the Sign Code, of the San José Municipal Code as it pertains to skyline signs and roof signs in the Edenvale Industrial Redevelopment Area. CEQA: Exempt, PP03-10-307. Council District 2. (Planning, Building & Code Enforcement)

[Driving a Strong Economy Committee referral 10/27/03 – Item 4.2(d)]

Ordinance No. 27018 was passed for publication.

Staff directed to include the recommended change of allowing a combination skyline and roof sign on a single building.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Public Hearing on historical property contract for the Hotel Metropole and Sunol Building.

Recommendation: PUBLIC HEARING ON HISTORICAL PROPERTY CONTRACT for The Hotel Metropole, City Landmark No. HL 88-046, located at the northwest corner of South Market and Post Streets (35 South Market Street), and The Sunol Building (City Landmark No. HL 01-129), located at 127-145 Post Street, in the CG Commercial General Zoning District. (Florin I. LTD., Owner).

(Continued from 10/28/03 - Item 4.4)

CEQA: Exempt. (Planning, Building, and Code Enforcement)

MA 02-003 - District 3

Resolution No. 71836 adopted.

4.5 Approval of an agreement for the purchase of land and improvements located at 1015 South Bascom Avenue.

Recommendation: Adoption of a resolution authorizing the Director of Public Works to:

- (a) Execute an agreement with Malcom H. Martin, Surviving Trustee of the Murray L. Martin 2002 Living Trust, for the purchase of land and improvements located at 1015 South Bascom Avenue in the amount of \$3,472,000, and any additional documents necessary to complete this transaction;
- (b) Settle the relocation claim for the business operated on the subject property.

CEQA: Exempt, PP03-09-286. Council District 6. (Public Works/Library)

Resolution No. 71835 adopted.

4.6 Council Study Session on the Economic Strategy.

Recommendation: Council Study Session on the Economic Strategy. (Economic Development)

Heard last following the City Council and Redevelopment Agency Meetings.

The Council Study Session on the Economic Strategy convened at 3:12 p.m. in the Health Building. Mayor Gonzales directed each Council Member to choose 3 top priority initiatives from the 15 Strategic Initiatives on Page 7 of the *Draft Economic Development Strategy, November 2003*. Mayor Gonzales will present the list, as prioritized with the top 3 initiatives, at the November 25, 2003 Council Meeting. Mayor Gonzales commented that all 15 initiatives would continue to move forward with the top 3 priorities chosen moving at a higher accelerated rate.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – November 3, 2003 Council Member Cortese, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Light Rail Projects Report and Policy Discussion
The Committee Accepted the Report.
- (b) Traffic Relief/Safe Streets
 - (1) Traffic Management Center Operation Presentation and Discussion
The Committee Accepted the Report.
- (c) Supporting Smart Growth
 - (1) No items
There were no items.
- (d) Regional Relationships/Funding/Policy
 - (1) Update on State, Federal and Local Legislative
The Committee Accepted the Report.
 - (2) Update on the Santa Clara Valley Transportation Authority (VTA), Valley Transportation Plan (VTP) 2020
The Committee accepted the report as an entering report with the primary objective of referring the list to all other Council Members so that they may make comments and return them to the Director of Transportation by November 21, 2003. Staff will report back to the Committee on December 1, 2003 with an informal memorandum with the results of any questions or concerns from the Council Members.
- (e) Oral petitions
There were none.
- (f) Adjournment
The meeting was adjourned at 3:55 p.m.

The Report of the Building Better Transportation Committee, and the Actions of November 3, 2003, were accepted.

The Council Members were directed to refer any comments regarding the Santa Clara Valley Transportation Authority (VTA), Valley Transportation Plan (VTP) 2020, to the Director of the Department of Transportation by November 21, 2003.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of an agreement for the removal, transportation, and beneficial reuse of biosolids.

Recommendation: Report on a Request for Proposal and adopt a resolution authorizing the Director of General Services to:

- (a) Negotiate and execute a one-year agreement with four, one-year options with Browning-Ferris Industries, Inc. for the removal, transportation, and beneficial reuse of biosolids, with the first year compensation not to exceed \$1,185,730; and
- (b) Execute each of the options to renew without further City Council action other than the appropriation of necessary funds.

CEQA: Exempt, PP 03-09-300. (General Services)

Renumbered to Item 2.23.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

9.1 Approval of an ordinance relating to fire safety during construction.

Recommendation: Approval of an ordinance amending Title 17 of the San José Municipal Code by adding a new Chapter 17.82 relating to fire safety during construction. (City Attorney's Office)
(Deferred from 10/14/03 – Item 9.1)

Rules Committee deferred to 11/25/03.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.1 Presentation on proposed Design Guidelines for Downtown Development.

Recommendation: Presentation on proposed Design Guidelines for Downtown Development. (City Manager's Office/Redevelopment Agency)

Deferred to 12/2/03. Will be heard in the concurrently with Items 11.2 and 11.5.

- **Closed Session Report**
No Report.

- **Notice of City Engineer's Pending Decision on Final Maps**
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9353	n/s Hillsdale Ave. e/o Narvaez Ave.	7	KB Homes South Bay	6 lots	Condo	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.

- **Open Forum**
 - (1) **Ross Signorino stated San José is the number three City in the United States per KLIV; and the people of San José also deserve thanks by helping the reservists financially.**
 - (2) **William Garbett requested information on the availability of City Committee Meetings and Study Sessions on audio tapes.**

ADJOURNMENT

The Council of the City of San José adjourned at 2:30 p.m. to convene in Joint Session with the Redevelopment Agency Board.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:03 p.m.)

11.1 Public Hearing on appeal of the Planning Commission's decision to approve a Conditional Use Permit.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve, with standard and special conditions, a Conditional Use Permit to allow an addition to an existing public utility facility (San José Water Company) located on the northwest corner of San Tomas Expressway and Williams Road in the R-1-8 Residence Zoning District on a 17 acre site. The proposed addition consists of two settling ponds and three storage bins for temporary storage of excavated soil, asphalt, concrete, and base rock. (San José Water Company, Owner/Developer). CEQA: Exempt, CP03-009. Director of Planning, Building and Code Enforcement recommends upholding the decision of the Planning Commission to approve.

CP 03-009 - District 1

(Continued from 6/17/03 – Item 11.3 et al., and 11/4/03 – Item 11.1)

Dropped.

11.2 Public Hearing and approval of an ordinance modifying Downtown Zoning Regulations.

Recommendation: PUBLIC HEARING on approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations. CEQA: Resolution No. 65459, PP03-05-169. (Planning, Building, and Code Enforcement)

(Continued from 6/3/03 – Item 11.3 et al., and 10/21/03 – Item 11.1)

Continued to 12/2/03. Will be heard concurrently with Items 10.1 and 11.5.

11.3 Public Hearing appealing the approval of a CUP for 1733 Story Road.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve a Conditional Use Permit to allow operation until 2:00 a.m., and entertainment until 1:00 a.m. at an existing restaurant (Tacos Al Carbon), located on the east side of King Road, approximately 350 feet northerly of Story Road (1733 Story Road), on a 1.17 gross acre site in the CG General Commercial Zoning District. (Hoady Family LLC, Mr. Danny Hoady, Owner; Tacos Al Carbon & Video Amparo Guizar, Developer). CEQA: Exempt. SNI: East Valley/680 Communities. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and approve the Conditional Use Permit to allow operation of a restaurant until 3:00 a.m. on Saturdays, Sundays, and selected holidays and to allow associated entertainment activity until 2:00 a.m. Planning Commission approved maintaining operating hours until 2:00 a.m. with entertainment activities ceasing at 1:00 a.m.

CP 03-021 - District 5

Resolution No. 71838 adopted.

11 PUBLIC HEARINGS

11.4 Public hearing on planned development rezoning of the property located at 1023 Bird Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Bird Avenue, approximately 490 feet northeasterly of Snyder Avenue (1023 Bird Avenue), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District, to allow a 530 square foot, half-story living area in an existing accessory structure in conjunction with an existing single-family residence on a 0.15 gross acre site. (Stanley M. Davis et al. Owner/Developer). CEQA: Exempt. Director of Planning, Building, and Code Enforcement and Planning Commission recommend denial. (7-0-0).

PDC 03-060 - District 6

(Continued from 10/21/03 – Item 11.6)

Item 11.4 to be continued no longer than 6 months to allow development of a policy for “granny units”.

11.5 Public hearing on Director-initiated conventional rezoning of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street.

Recommendation: PUBLIC HEARING ON DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street, from CG General Commercial, R-M Multiple Residence, R-2 Two-Family Residence, LI Light Industrial Districts to DC Downtown Commercial District and DC-NT 1 Downtown Commercial-Neighborhood Transition 1 Districts, to allow mixed use, commercial, and residential uses on approximately 389 gross acres. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). (Planning, Building, and Code Enforcement) C 03-072 - District 3

(Continued from 10/21/03 – Item 11.9)

Continued to 12/2/03. Will be heard concurrently with Items 10.1 and 11.2.

11.6 Public hearing on planned development prezoning of the property located at 620 Curtner Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING of the property located at the south side of Curtner Avenue, approximately 630 feet westerly of Bascom Avenue (620 Curtner Avenue), from County to A(PD) Planned Development Zoning District, to allow up to 15 single-family attached residential units on a 1.02 gross acre site. (K. Naderzad, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (6-1-0).

PDC 03-046 - District 9

Ordinance No. 27019 passed for publication.

11 PUBLIC HEARINGS

11.7 Public hearing on conventional rezoning of the property located at 2430 Ruby Avenue.

Recommendation: PUBLIC HEARING ON CONVENTIONAL PREZONING of the property located at the east side of Ruby Avenue, approximately 780 feet northerly of Murillo Avenue (2430 Ruby Avenue), from County to R-1-2 Residence District, to allow a single-family use on a 0.52 gross acre site. (Thuoc Dinh Nguyen & Minh Thu Thi Doan, Owners. CEQA: Resolution No. 65459. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

C 01-032 - District 8

Ordinance No. 27020 passed for publication.

11.8 Public hearing on planned development rezoning of the property located at Edenvue Drive and Monterey Road.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeasterly corner of Edenvue Drive and Monterey Road, from CP Commercial Pedestrian to A(PD) Planned Development Zoning District, to allow an existing approximately 2,200 square foot retail building, and the construction of a new, approximately 3,922 square foot retail building and associated improvements on 0.55 acre. (Messina Richard V Trustee & Et Al, Owner). CEQA: Exempt. SNI: Edenvale/Great Oaks.

PDC 03-069 - District 2

Continued to 12/2/03.

11.9 Public hearing on conventional rezoning of the property located at 2198 Story Road.

Recommendation: PUBLIC HEARING ON CONVENTIONAL REZONING of the property located at the southwest corner of Story Road and Adrian Way (2198 Story Road), from CO Office Commercial Zoning District to CP Pedestrian Commercial Zoning District, to allow commercial uses on a 0.533 gross acre site. (Javier and Beatriz Martinez, Owner). CEQA: Resolution No. 65459. SNI: East Valley/680 Communities. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

C 03-058 - District 5

Ordinance No. 27021 passed for publication.

● Open Forum

- (1) **Danny Garza spoke of issues relating to Plata Arroyo Park.**
- (2) **Marc Boyd spoke of future medical services in San José and to look at saving San José Medical Center.**
- (3) **Wayne Hall, Winchester NAC, spoke of improving the communication between the City of San José and the NAC.**

- **Adjournment**

The Council of the City of San José was adjourned in memory of Hugo Joseph Bellardi, who is survived by his wife Evelyn, their daughter Maya Murphy, grandchildren, Mark Rapazzini, Todd Rapazzini, Jim Teague, Wendy Teague, and six great-grandchildren.

The Council of the City of San José was adjourned at 7:40 p.m.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Council of the City of San José convened at 2:56 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency.

7.1 Approval actions related to a lease with BTN Restaurant, LLC (dba Lee's Sandwiches) for Agency-owned space located in the Fourth Street Garage.

Recommendations:

- (a) The City Council adopt a resolution accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease of approximately 2,890 square feet at 88 South Fourth Street to BTN Restaurant, LLC (dba Lee's Sandwiches), making certain findings, and approving the lease; and
- (b) The City Council and Agency Board approve a lease between BTN Restaurant, LLC (Tenant), and the Agency (Landlord) for the space located at 88 South Fourth Street, with a ten-year term and four five-year options; and
- (c) The City Council adopt a resolution authorizing the City Manager to execute a Certificate of Nondisturbance and Attornment and other documents necessary to effectuate the lease with BTN Restaurant, LLC (dba Lee's Sandwiches), under the terms of the Master Lease Between the City and the Agency.

CEQA: Resolution No. 68839, PP03-09-279 [CIVIC PLAZA]

Resolution No. 71837 adopted for 7.1(a) and 7.1(c).

ADJOURNMENT

The Council of the City of San José and Redevelopment Agency Board adjourned at 3:02 p.m. to convene in a Special Study Session at the Health Building.